

Message Text

CONFIDENTIAL

PAGE 01 OTTAWA 04420 01 OF 02 261736Z

54

ACTION EB-07

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R 261556Z NOV 75

FM AMEMBASSY OTTAWA

TO SECSTATE WASHDC 8145

C O N F I D E N T I A L SECTION 1 OF 2 OTTAWA 4420

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E.O. 11652: GDS

TAGS: ENRG, CA

SUBJ: MACKENZIE VALLEY GAS PIPELINE

REF: STATE 257092

1. UPON RECEIPT REFTEL, EMBASSY REQUESTED WRITTEN COMMENTS FROM GOC ON QUESTIONS POSED BY CONGRESSMAN MELCHER. AFTER DUE CONSIDERATION, EXTAFF INFORMED EMBASSY THAT GOC CHOSE NOT TO ATTEMPT TO PROVIDE ANSWERS TO SPECIFIC QUESTIONS BUT INSTEAD INVITED EMBASSY REPS TO ATTEND ORAL BACKGROUND BRIEFING ON NATIVE CLAIMS SETTLEMENT ISSUES. MEETING TOOK PLACE AT EXTAFF ON NOV 14. PAM MCDUGALL, DIRECTOR GENERAL, BUREAU OF ECONOMIC AND SCIENTIFIC AFFAIRS, EXTAFF HEADED GOC SIDE BUT BARRY YATES, ACTING ASSISTANT DEPUTY MINISTER OF DEPT OF INDIAN AND NORTHERN AFFAIRS (IAND), PROVIDED SUBSTANTIVE BRIEFING. (MISS MCDUGALL SAID RALPH TOOMBS, SENIOR ADVISOR, EMR, HAD PLANNED TO ATTEND BUT HAD TO CANCEL OUT AT LAST MINUTE). LEARY, BUCHANAN AND NEF ATTENDED FOR EMBASSY.

2. MISS MCDUGALL EMPHASIZED AT THE OUTSET THAT GOC WISHED TO BE AS RESPONSIVE AS POSSIBLE TO U.S. QUESTIONS AND TO ENSURE THAT CANADIAN POSITION IS ACCURATELY CONVEYED TO U.S. AUTHORITIES. TO THIS END SHE WOULD ASK YATES TO MAKE ORAL PRESENTATION AND ANSWER QUESTIONS AND PROVIDE COPIES OF TEXTS OF PERTINENT STATEMENTS BY GOC MINISTERS.

CONFIDENTIAL

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PAGE 02 OTTAWA 04420 01 OF 02 261736Z

3. YATES DID NOT ADDRESS HIMSELF DIRECTLY TO CONGRESSIONAL QUESTIONS BUT FOLLOWING PARAGRAPHS CONTAIN EMBASSY'S SUMMARY OF ORAL AND WRITTEN MATERIAL WHICH HE PROVIDED, ORGANIZED TO CORRESPOND TO FIVE QUESTIONS.

4. QUESTION A. GOC IS COMMITTED TO SETTLE NATIVE CLAIMS. IAND MINISTER JUDD BUCHANAN IN SPEECH IN YELLOWKNIFE ON SEPT 10, 1975 STATED: "I ATTACH GREAT IMPORTANT TO SETTLING THE LAND CLAIMS AND WILL DO ALL POSSIBLE TO MOVE QUICKLY TO DEAL WITH THE DOCUMENTED CLAIMS OF THE NATIVE PEOPLE AS SOON AS THEY ARE PRESENTED TO ME." BUT GOC HAS TAKEN POSITION THAT BEGINNING OF PIPELINE CONSTRUCTION NEED NOT WAIT COMPLETION OF SETTLEMENT. ON JANUARY 18, 1974, FORMER IAND MINISTER JEAN CHRETIEN SAID IN YELLOWKNIFE: "CONSIDERATION OF A RIGHT OF WAY APPLICATION WILL, OF COURSE, BE WITHOUT PREJUDICE TO ANY RIGHT, TITLE OR INTEREST THAT PEOPLE OF NATIVE ORIGIN IN THE TERRITORIES MAY HAVE OR MAY ESTABLISH." MORE RECENTLY, ON JANUARY 15, 1975 IN CBC TELEPHONE INTERVIEW IN VANCOUVER, BUCHANAN, IN RESPONSE TO QUESTION WHETHER HE WAS "PREPARED TO GUARANTEE TO THE NATIVE PEOPLE OF THE NORTH THAT NO CONSTRUCTION WILL TAKE PLACE UNTIL THEIR LAND CLAIMS ARE SETTLED" STATED: "NO I AM NOT." HE ADDED: "IF THE WHOLE PROCEDURES WERE FOLLOWED THROUGH, ... (THE GOC) MIGHT WELL BE IN THE POSITION OF SAYING, 'LOOK, FOR THE GREATER GOOD OF CANADA, WE ARE GOING TO HAVE TO MOVE AHEAD ON THIS WITHOUT THE COMPLETION OF THE LAND CLAIMS'. HOWEVER, YOU KNOW, I WOULD LIKE TO ADD THAT THERE IS NO QUESTION THAT PEOPLE WOULD BE MADE RIGHT AWAY ... VERY MUCH AWARE THAT THE APPLICATION AND THE GRANTING OF IT WOULD BE WITHOUT PREJUDICE TO ANY RIGHT, TITLE OR INTEREST THAT THE NATIVE PEOPLE (MIGHT HAVE) ..."

5. GOC IMPETUS IN MOVING AHEAD ON CLAIMS SHOULD BE NOTED: A SETTLEMENT IS BEING FINALIZED AT JAMES BAY WHICH GOC INTENDS TO USE AS MODEL FOR SETTLEMENT OF ABORIGINAL CLAIMS IN NORTH (OTTAWA 4281); PRIME MINISTER HAS APPOINTED FORMER IAND ASSISTANT DEPUTY CONFIDENTIAL

CONFIDENTIAL

PAGE 03 OTTAWA 04420 01 OF 02 261736Z

MINISTRY DIGBY HUNT AS CHIEF NEGOTIATOR FOR NATIVE PEOPLE CLAIMS, BASED IN YELLOWKNIFE, NWT, AND HUNT IS ALREADY ON THE SCENE AND IN OPERATIVE STATUS; AND GOC HAS PROVIDED SUBSTANTIAL FUNDING (SOME \$2 MILLION) TO NATIVE PEOPLES TO ASSIST THEM IN PREPARATION OF CLAIMS.

6. REGARDING PHYSICAL THREATS AGAINST PIPELINE, GOC

DOES NOT CONSIDER THESE MATTERS OF SERIOUS CONCERN.
SOME EXTREME STATEMENTS ARE TO BE EXPECTED IN COURSE
OF BERGER HEARINGS WHICH PROVIDE SAFETY VALVE FOR
EMOTIONS OF SOME OF NATIVE PEOPLES.

7. (EMBASSY COMMENT: IN A NUTSHELL GOC IS TRYING TO
SETTLE CLAIMS EXPEDITIOUSLY AND EXPRESSES CONFIDENCE
IN ITS ABILITY TO DO SO BUT TAKES POSITION THAT COM-
PLETION SETTLEMENT IS NOT NECESSARILY PREREQUISITE
FOR INITIATION OF PIPELINE PROJECT. PRIVATE INVESTORS
WILL OF COURSE HAVE TO MAKE THEIR OWN JUDGMENTS ON
THE RISKS INVOLVED).

8. QUESTION B AND C. PARLIAMENTARY APPROVAL OF
SETTLEMENTS WILL NOT NECESSARILY BE REQUIRED BUT MAY
BE SOUGHT DEPENDING ON CONTENT OF SETTLEMENTS.
(EMBASSY COMMENT: PARLIAMENTARY ACTION IS LITTLE MORE
THAN A FORMALITY IN SITUATION WHERE GOC HAS COMMANDING
MAJORITY).

9. FINANCING OF COMPENSATION TO NATIVE PEOPLES UNDER
SETTLEMENTS MAY BE ACCOMPLISHED IN SEVERAL WAYS
INCLUDING FROM GENERAL GOC REVENUES OR ROYALTIES FROM
ECONOMIC ACTIVITY. GOC'S COMMITMENT TO ACHIEVE
SETTLEMENTS NOT RPT NOT IN ANY WAY CONTINGENT ON
EXISTENCE OF PIPELINE OR OTHER PROJECTS AS REVENUE
SOURCE.

CONFIDENTIAL

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PAGE 01 OTTAWA 04420 02 OF 02 261748Z

54

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FM AMEMBASSY OTTAWA
TO SECSTATE WASHDC 8146

C O N F I D E N T I A L SECTION 2 OF 2 OTTAWA 4420
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10. QUESTION D. TIMING OF SETTLEMENT OF NATIVE CLAIMS
WILL BE CLEARER IN NEXT FEW MONTHS. UPON COMPLETION

OF HIS HEARINGS, JUSTICE BERGER WILL PREPARE AND SUBMIT A REPORT AND RECOMMENDATIONS ON THE TERMS AND CONDITIONS THAT OUGHT TO BE APPLIED TO GRANT OF APPROVAL TO CONSTRUCT PIPELINE. BERGER IS EXPECTED SHORTLY TO PROVIDE GOC WITH ESTIMATE OF HOW MUCH LONGER HIS HEARINGS WILL LAST. GOC CURRENTLY EXPECTS THAT HEARINGS WILL NOT BE FINISHED BEFORE MARCH 31, 1976 BUT BELIEVES IT IS REASONABLE TO ASSUME BERGER REPORT AND RECOMMENDATIONS WILL BE IN HAND BEFORE NEB HEARINGS ARE COMPLETED LATE IN 1976.

11. STATUS OF NEGOTIATIONS WITH THREE OF PRINCIPAL GROUPS INVOLVED IS AS FOLLOWS:

(A) COUNCIL OF YUKON INDIANS (CYI). BUCHANAN STATED IN YELLOWKNIFE ON SEPTEMBER 10, 1975 THAT HE HAD MET WITH CYI AND "WE ADOPTED THE OBJECTIVE OF MARCH 31, 1976 FOR AN AGREEMENT IN PRINCIPLE." IF PROGRESS HERE EQUALS THAT MADE IN JAMES BAY SETTLEMENT, FINAL SETTLEMENT WITH CYI COULD BE REACHED BY MARCH 1977, E.E., ABOUT ONE YEAR AFTER AGREEMENT IN PRINCIPLE.

(B) NORTHWEST TERRITORIES INUITS (ESKIMOS). GOC EXPECTS TO RECEIVE DOCUMENTED CLAIMS BY END OF 1975 WHICH WOULD PERMIT COMMENCEMENT OF NEGOTIATIONS.

CONFIDENTIAL

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PAGE 02 OTTAWA 04420 02 OF 02 261748Z

(C) NWT INDIAN BROTHERHOOD HAS NOT GIVEN OTTAWA A DATE FOR SUBMISSION OF DOCUMENTED CLAIMS BUT THIS WILL PROBABLY OCCUR IN 1976. NWT INDIANS' CAVEAT AGAINST LAND TITLE IN MACKENZIE VALLEY (OTTAWA 4242), WHICH COULD HAVE MADE IT DIFFICULT FOR PROPOSED PIPELINE TO OBTAIN FINANCING SINCE IT WOULD HAVE CLOUDED TITLE, WAS REJECTED BY APPEAL COURT (ALTHOUGH CASE COULD BE FURTHER APPEALED TO SUPREME COURT).

12. QUESTION E. SEE FOREGOING, ESPECIALLY UNDER QUESTIONS A AND D.

13. IN SUM, YATES SAID GOC WANTS TO EMPHASIZE THAT IT IS STEADILY MOVING DOWN THE PATH OF SETTLEMENT OF LAND CLAIMS OF THE 5,000 STATUS INDIANS AND NON-STATUS METIS IN THE YUKON, THE 7,000-ODD MACKENZIE VALLEY INDIANS AND METIS, AND 12,000 INUITS, OF WHOM ABOUT 1,000 ARE LOCATED IN THE MACKENZIE DELTA.

14. COMMENT: IN CONSIDERING THESE REPLIES, DEPARTMENT SHOULD KEEP IN MIND AND PERHAPS POINT OUT TO HOUSE COMMITTEE THAT GOC IS OBVIOUSLY TRYING TO PUT THE BEST LIGHT ON WHOLE PROBLEM. THAT IS NOT TO SAY THAT GOC VIEW WON'T PREVAIL; NATIVE PEOPLES ARE FEW, SCATTERED, AND DIVIDED AND IN SUCH CONFRONTATIONS, INDIANS HAVE RARELY PREVAILED AGAINST DETERMINED WHITE MAN'S BUREAUCRACY. AS REPORTED IN EMBTELS 4178 AND 4281, GOC DOES HAVE MOMENTUM ("STEAMBROLLER", WAS WORD USED BY YATES) WITH CONCLUSION OF JAMES BAY NEGOTIATIONS, WITH BERGER HEARINGS, WITH THREAT OF LEGISLATION IN BACKGROUND, AND WITH DIGBY HUNT PRESUMABLY OFFERING REASONABLY GENEROUS FINANCIAL AND OTHER SETTLEMENTS TO MORE MODERATE NATIVE PEOPLES. ON OTHER HAND, INDIAN LEADERSHIP NOW BEING SUBJECTED TO STRESSES NEVER BEFORE ENCOUNTERED WITH SUCH INTENSITY, AS "TORONTO ESKIMOS" (WHILE TORONTO RADICALS SUCH AS MEL WATKINS) ARE WANDERING ABOUT NORTH AND ARE ADVISING INDIANS TO MORE EXTREME MEASURES. WHILE SOME PUBLIC STATEMENTS BY NATIVE PEOPLES SHOULD BE DISCOUNTED

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 OTTAWA 04420 02 OF 02 261748Z

AS NEGOTIATING PLOYS, NONETHELESS SOME HAVE SPOKEN OF VIOLENCE, HAVE DECLARED THE JAMES BY SETTLEMENT AS A SELL-OUT, AND HAVE DECLARED THEY WILL NEVER CEDE THEIR LANDS TO A WHITE MAN'S PIPELINE. INDIAN LEADERSHIP CONFERENCE IN DECEMBER IN AKLAVIK (EMBTEL 4178) WILL BE IMPORTANT IN THIS RESPECT. HOW SCENARIO WILL EVENTUALLY BE PLAYED OUT IS A JUDGMENT CALL ON WHICH EVEN AN NFL REFEREE MIGHT HESITATE.

15. OTHER EMBASSY REPORTING ON THIS SUBJECT CONTAINED IN EMBTELS 3523, 3700, 3741, 4178, 4242, 4281, AND IN OTTAWA A-647. TEXTS OF MINISTERIAL STATEMENTS PROVIDED BY YATES BEING POUCHED TO EUR/CAN/BLAKEMORE AND EB/FSE/RAICHT.

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